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REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS OBSERVER MISSION IN EL SALVADOR

I. INTRODUCTION

1. The present report is submitted in compliance with paragraph 14 of resolution 920 (1994), by which the Security Council requested me to report by 1 November 1994 on the United Nations Observer Mission in El Salvador (ONUSAL), including on the fulfilment and completion of its mandate and on modalities for its progressive withdrawal. In the same paragraph, the Council invited me to prepare modalities for assistance to El Salvador, within the framework of the peace accords, for the post-ONUSAL period.

2. As members of the Security Council will recall, I last reported on ONUSAL on 26 August 1994 (see S/1994/1000). Given that my report contained a detailed account of the state of implementation of outstanding commitments under the peace accords, the present report provides an overall assessment of the process in its political, institutional and socio-economic dimensions and evaluates the effort required to build a solid basis that will ensure, as far as possible, its irreversibility.

3. Political life in El Salvador continues to adjust to the rules of democracy, as embodied in the Constitution which has been reformed in accordance with the peace accords. The legislative, executive and judicial branches of the State respect their respective attributions, public security and national defence are exercised through separate institutional structures and all major political parties have entered a process of internal discussion to adjust to the new parameters created by the transition from a society divided by a prolonged civil war to a democratic system directed towards reconciliation, stability and development.

4. Helped by political stability, the Salvadorian economy continued to grow at over 5 per cent in 1993, reflecting strength in construction and commerce in the private sector. The fall in the budget deficit to 3 per cent of gross domestic product (GDP) in 1993 can be explained by increased tax revenue and the rationalization of expenditure. The rate of inflation fell to 12 per cent, the lowest level in the last five years. In spite of the real appreciation of the colón, non-traditional exports grew by about 18 per cent, probably helped by increases in productivity. A rise in the volume of coffee production also

contributed to export growth. In spite of export growth, the trade deficit reached $1.2 billion in 1993. Economic growth has been even more dynamic during the first half of 1994. The increase in the price of coffee in 1994 is expected to increase export revenue in 1995.

5. Despite this real progress, certain issues remain to be resolved before all pending commitments under the peace accords can be said to have been met. These issues relate to the full deployment of the National Civil Police; the completion of the demobilization of the National Police; the reform of the judicial and electoral systems; the transfer of land to former combatants and the conclusion of some important economic reintegration programmes for their benefit; the implementation of the recommendations of the Commission on the Truth; and the completion of the ongoing process to extend all public services to the former conflict zones.

II. ISSUES RELATING TO PUBLIC SECURITY

6. Since I last reported to the Security Council, the territorial deployment of the National Civil Police has continued, leaving only parts of 2 of the country's 14 departments without full coverage. While all nine functional divisions of the National Civil Police are now deployed, some of them are not yet fully operational. Increasing disciplinary problems, combined with continued deficiencies in training and gaps in the legal framework that governs the operations of the National Civil Police, underline again the need for a more expeditious and effective implementation of ONUSAL's recommendations for the correction of irregularities in the National Civil Police and the functioning of the National Public Security Academy (see S/1994/1000, paras. 16-25) in order to avoid a further erosion of public confidence in the new force. Until this is done, the National Civil Police will remain fragile and unable to develop as an effective enforcer of the law. This could result in a tendency to establish order through practices outside the legal framework. It is hoped that the recently appointed Inspector-General who, as provided by the peace agreement (see S/23501, annex, chap. II, 3, B, (b)), will be responsible for monitoring and supervising the operations of the National Civil Police, will be provided with the necessary means to address these negative trends.

7. While demobilization of the National Police has accelerated and the Government has informed ONUSAL that the process will be largely completed by 31 December 1994, a detailed plan for phasing out the remaining personnel has not yet been received by ONUSAL. It is still unclear whether the requirements set out in the 19 May 1994 timetable for the implementation of the most important outstanding agreements (see S/1994/612, annex, para. 3.F.2) will be met for the admission into the Academy of additional National Police candidates. In addition, the Customs Police will not be fully demobilized until 31 March 1995, the final deadline envisaged under the 19 May timetable (see ibid., para. 3.B).

III. HUMAN RIGHTS AND THE JUDICIAL SYSTEM

8. The human rights situation in El Salvador has improved markedly during ONUSAL's three years of operation. The work of the mission's Human Rights Division has been the subject of periodic reports by its Director, the next one of which will be submitted shortly. The Division's verification has been implemented by investigation of human rights violations and the strengthening of national institutions, so as to overcome deficiencies and leave these institutions with the capacity to meet the demands of the peace accords.

9. In the past six months, ONUSAL's Human Rights Division has emphasized the strengthening of national institutions such as the National Council of the Judiciary, the office of the Attorney-General of the Republic, the National Civil Police and the National Public Security Academy, as well as the development of a new doctrine for the Armed Forces. In July, a mechanism for the joint verification of human rights violations was established with the National Counsel for the Defence of Human Rights, together with a training and specialization programme for officials of the National Counsel. The Division has also continued to conduct seminars and specialized workshops on human rights for members of the judicial system, the Armed Forces and non-governmental organizations (NGOs) active in the field of human rights. These activities have been complemented by the publication of a series of books and pamphlets on human rights.

10. In this phase of the peace process, institution-building is crucial for the consolidation of the progress achieved in the protection of human rights and due process. In view of the future winding-up of ONUSAL, programmes to ensure continuous support for institution-building are being prepared.

11. Progress in the strengthening of the judiciary has been achieved through the adoption of legislation that enhances the protection of human rights and seeks a more independent and efficient judicial system. However, serious deficiencies still exist that prevent the eradication of impunity. With the establishment of the new Supreme Court of Justice (see S/1994/1000, para. 5), conditions are in place for the required reform of the judicial system, an issue that must be promptly and effectively addressed by the new Court, together with the adequate training of judges. While initial progress has been made on the latter issue through specialized courses for judges sponsored by ONUSAL, this task should now be assumed on a permanent basis by the Supreme Court and the Judicial Training School, with the support of the international community. Without the completion of judicial reform, the institutional framework for guaranteeing the rule of law and respect for human rights will remain weak, notwithstanding the development of the National Civil Police and parallel efforts to strengthen the National Counsel for the Defence of Human Rights.

IV. ELECTORAL SYSTEM

12. Following its election in July 1994 (see S/1994/1000, para. 42), the new Supreme Electoral Tribunal has begun discussing reform. A commission of members from various political parties, serving in their individual capacity, has been set up at the Government's initiative. The Tribunal has focused on the

preparation of a single identity and voting document, a task in which it has received the technical support of the Electoral Advisory and Promotion Centre of the Inter-American Human Rights Institute (IIDH/CAPEL). Should the IIDH/CAPEL proposal be implemented, a new electoral roll could be in place in time for the 1997 legislative elections, while the new identity/voting document would be ready for the 1999 presidential elections. Other reforms under discussion relate to measures for voting in the area of residence and provisions to ensure some form of representation in municipal councils for parties in addition to the one obtaining the largest number of votes.

13. A thorny issue, which stems from the politicization of the Tribunal, is the assignment of quotas to the largest political parties for the recruitment of the Tribunal's personnel. Continued resistance by some members to modification of this rule could undermine the Tribunal's professionalism. Repairing this basic flaw in the system is essential if the Tribunal is to be truly independent and reliable.

V. RECOMMENDATIONS OF THE COMMISSION ON THE TRUTH

14. ONUSAL continues to insist on the implementation of the judicial reforms and other recommendations of the Commission on the Truth, which are binding upon the parties under the peace accords, especially those referring to the ratification of international human rights treaties, including recognition of the compulsory jurisdiction of the Inter-American Court of Human Rights. A number of recommendations not requiring legislative action are also still pending.

VI. SOCIO-ECONOMIC MATTERS

A. Land-transfer programme

15. I am pleased to report that 1,006 beneficiaries have received title to land since mid-August. However, in spite of a number of measures taken by the Government to accelerate the land-transfer programme through decentralization of decision-making and streamlining of procedures, exactly two years after the land programme was accepted by the parties only 32 per cent of the established total of 40,648 potential beneficiaries (see S/1994/1000, para. 28) have received land. These 12,942 beneficiaries have received a total of 51,303 manzanas, the average per beneficiary thus being slightly less than 4 manzanas (2.8 hectares). The remaining operational problems should not be underestimated since the land to be transferred is in smaller plots and it will therefore be necessary to deal with a larger number of landowners; the land is of lower quality and therefore more of it will be needed; and it is located in areas without a dependable registry of properties. The relocation of an estimated 8,000 landholders, which should be left for the end of the programme as stipulated in the 13 October 1992 agreement, will also be a problem not only because of the psychological difficulties associated with relocation but also because of the lack of adequate alternatives in a country with such an acute land shortage. Given the delay in the implementation of this programme and the difficulties that lie ahead, I made a personal appeal to President Calderón Sol last month to adopt measures to

facilitate the rapid completion of this programme. I have also urged both the Frente Farabundo Martí para la Liberación Nacional (FMLN) and the Armed Forces to refrain from any further effort to revise and/or add to the list of potential beneficiaries.

16. The expiry earlier this year of a decree which, pursuant to the peace accords, barred eviction of landholders in the former conflict zones, has been a source of concern, particularly because of the expectations of eviction that it created among landowners. However, on 1 September the Legislative Assembly extended landholders' protection from eviction. Another welcome development was the adoption on 11 October of a decree to expedite procedures for the legalisation of unregistered properties and for the solution of several other problems affecting lands to be transferred. On the other hand, the adoption on 22 September of a decree by which only titled landowners are allowed to sell their coffee beans is a new source of concern.

17. In addition to the problem of transferring land, there is the problem of human settlements (referred to in the agreements as predios e inmuebles), which is the most serious problem that remains to be resolved. At my request, my Special Representative has urged the Government to adopt a flexible policy to ensure that the settlements can be easily and quickly transferred. Such flexibility is called for because strict interpretation of the rules of the 13 October 1992 land programme would prevent such transfer. The socio-political consequences of breaking up these settlements would be serious (see S/1994/561, paras. 76 and 87 and S/1994/1000, para. 56), and it was for this reason that the Government had agreed to adopt a new policy.

B. Reintegration programmes

18. Although progress can be reported with regard to some reintegration programmes, there are still delays. The programme for agricultural credit, which is essential to reactivate production in the zones of conflict, is still paralysed. Another matter of concern is the Government's unilateral decision to reduce credit to landholders from 10,000 to 4,000 colones. This will deprive them of the ability to produce the minimum required for subsistence and servicing their debts. At the same time, the agricultural technical assistance programme to beneficiaries of the land programme continues to cover only a small number of properties. Without agricultural credit and technical assistance, there is no possibility that the few who have benefited from the land programme will be able to become successful producers and service their debt, particularly in view of the small amount of land to which they have been entitled.

19. Delays in housing programmes, including those targeted for middle-level former commanders of FMLN ("plan 600"), are also a source of concern, as is the lack of adequate resources for the Fund for the Protection of the Wounded and War-Disabled as a Consequence of the Armed Conflict (see S/26790, para. 70).

20. Also disturbing is the announcement by the National Reconstruction Secretariat of the closure of reintegration programmes for demobilized personnel of the Armed Forces, owing to lack of financial resources.

21. Understandably, these situations are creating serious discontent among the affected groups. The recent takeover of the Legislative Assembly, not for the first time, by a group of disgruntled former combatants of the armed forces who held hostage 27 legislators from various parties from 26 to 28 September has brought these tensions into focus. With ONUSAL as intermediary, talks were arranged and agreement was reached on ways to accelerate the completion of compensation payments, the implementation of established programmes and the incorporation of former members of paramilitary bodies in regular social programmes.

VII. PUBLIC ADMINISTRATION

22. The restoration of public administration in former conflict zones has been virtually completed as regards the return of mayors and judges, but education, health care and other basic services are still lacking in several areas. Thorough reconstruction of the areas most ravaged by the war can be achieved only by making a decisive effort to extend these essential services to them. The Government has been urged repeatedly to give priority to these needs. It argues, however, that shortages in funding and resources have prevented the provision of basic services even in areas that were not affected by the conflict.

VIII. FINANCIAL ASPECTS

23. The Fifth Committee, by its draft decision contained in document A/C.5/49/L.3 of 11 October 1994, recommended to the General Assembly that the Secretary-General be given authority to enter into commitments for the operation of ONUSAL in the amount of $5,643,700 gross ($5,040,800 net) for the period ending 30 November 1994. Therefore, should the Security Council decide to extend the current mandate of the Observer Mission beyond 30 November 1994, I shall request the General Assembly at its current session to make adequate financial provisions for the extension of the Mission.

24. As at 24 October 1994, unpaid assessed contributions to the ONUSAL special account (including the United Nations Observer Group for Central America) since the inception of the mission amounted to $23.8 million. In order to provide ONUSAL with the necessary cash-flow, a total of $9 million has been borrowed from other peace-keeping accounts. These loans remain unpaid. The total outstanding assessed contributions for all peace-keeping operations on 24 October 1994 amounted to $1,630.9 million.

IX. OBSERVATIONS

25. The Government of President Armando Calderón Sol has repeatedly confirmed its commitment to comply fully with those elements of the peace accords that remain to be implemented. The leadership and a large majority of the Armed Forces have also expressed the same commitment, even though a relatively small political sector continues to regard the armed forces as having made a disproportionate sacrifice as a consequence of the peace accords. This evidence

of sustained political will is encouraging. However, it must be matched by concrete action and the capacity to activate still recalcitrant sectors within the administration. Delay in implementation of the outstanding commitments has also been due to lack of organization and expertise - a common phenomenon in developing countries - and, in some instances, to lack of financing. Furthermore, in compliance with the peace accords, some crucial elements still require the presence and assistance of the United Nations playing its verification and good offices role.

26. The joint declaration made on 4 October 1994 by the Government and FMLN, which reconfirmed the commitment of both signatories to complete implementation of the peace accords (see S/1994/1144), bears witness to the political will mentioned above. The parties intend to work out promptly specific agreements to accelerate implementation of the outstanding issues and to send a joint mission to donor countries and institutions to seek the funds still required to finance the programmes.

27. In addition to the delays in implementing the land and other reintegration programmes, inadequacies in the provision of credit and technical assistance are endangering their success and sustainability. United Nations agencies and programmes need to become more involved, but with a common design and strategy. Success of the reintegration programmes is critical to the consolidation of the peace process. Failure or continued delays could give rise to serious upheaval, as has been the case in other countries, including neighbouring ones. Promises have been made and they must be kept. A strong and urgent push to these programmes as well as to the problem of human settlements is imperative.

28. The United Nations undertaking in El Salvador has been innovative in a variety of ways. The Organization played a central role in the negotiation of the peace accords from start to finish and has overseen a multidimensional peace-keeping and peace-building operation in whose design it played a key part. It remains engaged in the transition from peace-keeping to post-conflict peace-building. This involves not only security-related aspects such as the abolition of the old military-controlled National Police and the creation of a new National Civil Police, following the reform of the Armed Forces in a role confined to defence against external threat, but also key institutional reforms designed to entrench the rule of law and provide a solid framework to guarantee respect for human rights. Last but not least, the United Nations supports a complex set of programmes for the reintegration into society of former combatants of both sides and of the rural populations who occupied land in conflict zones during the years of armed confrontation. In endorsing the Secretary-General's negotiating efforts and subsequently the peace accords themselves, the Security Council accepted the request of the parties that the United Nations verify compliance with all the agreements reached therein. The Council has confirmed this acceptance and did so again recently when it adopted the statement made on its behalf by the President on 16 September 1994 (S/PRST/1994/54).

29. The Salvadorian peace process holds the promise of being a remarkably successful achievement once it is completed. However, certain key undertakings have yet to be fully implemented, although it is expected that this can be done within a reasonable period of time. Both the Government of El Salvador and FMLN

have stressed to me that, if that goal is to be achieved, it is essential for the United Nations to fulfil its commitment to the Salvadorian people to verify the full implementation of the peace accords. To this end I am exercising maximum suasion on the parties, both directly and through my Special Representative, reminding them of the international community's expectation that each will honour its commitments in full and promptly. In these circumstances, I believe that it is essential to retain ONUSAL in existence for one further mandate period, albeit at much reduced strength not exceeding a total of 100 international staff, to ensure that the incomplete undertakings are fully implemented, particularly until such a time as the National Police is completely disbanded and the National Civil Police is fully deployed and operational. These goals in the public security field should be accomplished in about five months. At that time it would be possible to consider how best to approach the remaining verification duties incumbent upon the Organization, which, although they would not involve United Nations military or police personnel, nevertheless concern critical and sensitive components of the peace accords. These include the institutional reforms in the judiciary, the recommendations of the Commission on the Truth and, most of all, the reintegration programmes, especially the extremely slow-moving land programme, which are critical to a durable peace.

30. Accordingly, I recommend to the Security Council the extension of ONUSAL until 30 April 1995, at which date that part of its functions which require military and police personnel will have been completed. Before the Mission's termination, I would present to the Security Council my thoughts on mechanisms to maintain United Nations verification thereafter, as well as information on technical assistance programmes in the fields of human rights, the judiciary, the electoral system and reintegration, especially land transfers, that would contribute to long-term political and social stability in the country. This approach responds to the widely held view that the termination of ONUSAL should not mark the end of United Nations efforts to consolidate peace in El Salvador.

31. In concluding, I pay tribute to my Special Representative, Mr. Enrique ter Horst, and to all the personnel of ONUSAL for the dedication, perseverance and exemplary manner in which they are carrying out the mandate entrusted to them. They have spared no effort to restore hope to the people of El Salvador and consolidate peace in their long-suffering country.